



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 341X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Polk County, Iowa

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—Exempt Abandonments to abandon approximately 0.6 miles of non-contiguous rail line segments in Des Moines, Polk County, Iowa, as follows: (1) approximately 0.3 miles of rail line extending between milepost SD 336.8 at SE 26th Ct. and milepost SD 337.1 at Scott Ave. (the eastern segment); and (2) approximately 0.3 miles of rail line extending between milepost SD 339.3 at E 6th Street and milepost SD 339.6 near E. 1st Street and the Des Moines River (the western segment).<sup>1</sup> The line traverses United States Postal Service Zip Codes 50309 and 50317.

NSR has certified that: (1) no local traffic has moved over the line segments for at least two years; (2) no overhead traffic has moved over the line segments for at least two years, and if there were any overhead traffic, it could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line segments (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line segments either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-

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<sup>1</sup> According to NSR, the line segments are part of the same rail line but are separated by an approximately 2.0-mile middle line segment, which will not be abandoned and which will continue to connect with other rail lines.

year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 19, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 30, 2013. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28

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<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 CFR 1002.2(f)(25).

must be filed by October 9, 2013, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR's representative: Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

NSR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by September 24, 2013. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line segments. If consummation has not been effected by NSR's filing of a notice of consummation by September 19, 2014, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at

“WWW.STB.DOT.GOV.”

Decided: September 16, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner

Clearance Clerk

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09/19/2013]